

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of SBC Communications Inc. ("SBC") and AT&T Corp. ("AT&T") for Authorization to Transfer Control of AT&T Communications of California (U-5002), TCG Los Angeles, Inc. (U-5462), TCG San Diego (U-5389), and TCG San Francisco (U-5454) to SBC, Which Will Occur Indirectly as a Result of AT&T's Merger With a Wholly-Owned Subsidiary of SBC, Tau Merger Sub Corporation.

Application 05-02-027
(Filed February 28, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING THE GREENLINING MOTION FOR
PUBLIC OUTREACH MEASURES**

On May 19, 2005, a motion was filed by the Greenlining Institute (Greenlining) to require SBC Communications Inc. (SBC) to revise its customer notices regarding the Public Participation Hearings (PPHs) scheduled in this proceeding to make the message more understandable. Greenlining also asks the Commission to require SBC to award "outreach grants" to community groups to enable them to inform their constituencies of the existence and nature of the PPHs.

Responses to the Motion were filed on May 24, 2005. Greenlining filed a third-round response to replies on May 26, 2005.

Position of Greenlining

Greenlining claims that the ALJ has ignored Greenlining's suggestions for creative outreach for the PPHs. Greenlining also contended initially that SBC

appeared to be publicizing the PPHs primarily through bill inserts that customers rarely read and to which fewer respond. As noted below, Greenlining later acknowledged in a third-round reply that SBC actually used post card notification rather than bill inserts.

In any event, Greenlining seeks an order requiring revision to the customer notices to be more understandable, non-intimidating and culturally sensitive to encourage diverse communities that do not normally participate in PPHs to appear. Greenlining argues that a notice is not adequate for non-or-limited-English speakers simply because the notice is in their primary language. Greenlining presents the following as an example of language that would be appropriate as part of the PPH notice:

Because of the importance of this merger to the public, the Public Utilities Commission has scheduled seven public hearings. You are encouraged to attend and offer your opinion. You do not need permission or a lawyer to speak at the hearing since our proceedings are very informal.

Some community groups have said:

Future jobs and the very future of California depend in part on the SBC/AT&T merger assisting California's economy. This includes ensuring advanced technologies at an affordable cost to all Californians.

Greenlining offers its experts (including Greenlining Executive Director John Gamboa who previously helped devise outreach to low-income and minority communities for SBC's predecessor Pacific Bell) to design a wide range of notices that are low-cost, easily understandable, and culturally-sensitive.

To further encourage diverse and widespread participation in the PPHs, Greenlining also proposes in its Motion that Applicants:

- (1) Sponsor advertisements in a variety of minority media, including publications and radio, that promote active and diverse participation in these PPHs and that use adequate, understandable language as discussed above, and
- (2) Award outreach grants to community groups in each area of the state where the PPHs are being held to enable the community groups to inform their constituency of the nature of the proceeding, the PPHs, and their right to participate in the PPHs without a lawyer. (To avoid possible appearance of a conflict of interest, Greenlining states that it will not accept any outreach funds.)

Greenlining argues that these steps will help ensure that the Commission will have increased participation by those ratepayers that do not usually participate in Commission proceedings, including people of color, the poor, recent immigrants, the elderly, the disabled, non-English speakers, and other underserved communities.

Responses of ORA and TURN

Responses were filed on May 24, 2005, by ORA and TURN, both in support of the Greenlining motion. In addition to Greenlining's recommendations, ORA and TURN urges the Commission to consider the following proposals:

- Require more specific explanations in outreach materials regarding the relevance of the merger to consumers, including possible impacts on rates, service quality, DSL availability, choice of phone companies, for example.
- Require public service announcements on radio and television, especially on public stations.

- Require announcements posted in local news weeklies like Bay Guardian, LA Weekly, San Jose Metro, etc.
- Require specific outreach to seniors through the American Association of Retired Persons or Senior Centers.
- Expand current announcements to refer people to consumer advocates web sites for more information. TURN believes the current announcement is biased in that it refers people only to the companies' websites for more information.
- Expand the current announcement to refer to Communities for Telecom Rights or other Community Based Organizations. The announcement now refers consumers needing assistance in Spanish to the companies.

Response of Applicants

Applicants filed a response in opposition to the Greenlining Motion, arguing that no further notice is required in view of the efforts that are already being expended. Applicants point out that, contrary to Greenlining's claims, they have mailed individual post card notices, not bill inserts, to millions of customers in California, including ethnically diverse communities. Applicants argue that they have worked with Greenlining in developing the language used to provide broadbased notice of the PPHs. Applicants have translated the notice into eight languages other than English in order to reach numerous minority and ethnic publications. Applicants thus argue that they are already providing extensive and adequate notice of the PPHs.

Third-Round Reply of Greenlining

In a third-round response, Greenlining claims that Applicants' implication is misleading that Greenlining approved the language in SBC's notice. SBC rejected most of the language that Greenlining proposed, and informed

Greenlining that there was no time to make additional changes.¹ Greenlining acknowledges that a representative from SBC contacted Greenlining regarding input to the public participation notices, but provided Greenlining with only about 48 hours to provide comment. Greenlining's comment included titling the document: "Very Important Hearings" and starting with the following language: "SBC is seeking to acquire AT&T. This will create the most powerful and largest telecommunications company in California," and then continuing with the precise language included in the expedited motion filed on May 19, 2005.

Greenlining did approve the publications in minority and non-English-speaking groups in which Applicants served notice of the PPHs, but did not approve that language that SBC included in those publications. Greenlining indicates that it is this language that is the main subject of Greenlining's expedited motion. Greenlining argues that PPHs are pointless unless the notice for the PPHs is adequate.

Discussion

The Greenlining Motion raises issues concerning the general nature, extent, and means by which community outreach is implemented to the various public groups represented by Greenlining, as well as specific issues concerning whether or how customer notices of the PPHs may be modified.

¹ See Declaration of Itzel Berrío in Support of Greenlining's Reply To Applicants' Response to Expedited Motion ("Berrío Decl."), ¶¶ 5-6.

The Commission is, of course, sympathetic to the general sentiment expressed in the Greenlining Motion to promote adequate outreach to minority and diverse ethnic groups on a multi-lingual basis. In addressing the Motion made by Greenlining, however, one practical consideration is that customer notices of PPHs have already been mailed. Thus, to the extent that Greenlining seeks a rewriting of the language appearing in previously sent customer notices, such a remedy is not realistic at this point. Mailed notices cannot be retrieved and rewritten. Given the imminent approach of the dates for PPHs, it would not be practical at this point to redraft new notices and send them out before the meetings, even if such an action was otherwise warranted.

Likewise, it would not be appropriate to reschedule the PPHs merely to rewrite notice language through a new round of notices. Members of the public, including representatives from the groups represented by Greenlining, may have already made plans to attend the PPHs. It would be disruptive and unfair to such members of the public to change the schedule for PPHs at this point, particularly just to permit for further editing of more notices with perhaps somewhat different language.

While Applicants did not incorporate all of the specific language revisions requested by Greenlining, some requested changes were made, and the invitation for the public to attend the PPHs was reasonably clear. Theoretically, perhaps more language could have been added to encourage even more attendance and participation. Reasonable people may disagree over exact words and phrases that should or should not be included in drafting notices. But at some point, finalization of the notices must be brought to closure.

Moreover, by mailing the notices in a separate post card rather than as a bill insert, the Applicants have already addressed one of the criticisms initially

raised by Greenlining. In addition, the language in the notice was reviewed by the Commission's Public Advisor. Applicants also have translated the notice into eight languages other than English. They have also published notices in 16 newspapers and publications throughout California and plan to publish notices in 58 publications targeting ethnically diverse communities. Given these considerations, it is concluded that the language in the notices is adequately descriptive and is reaching communities in several minority languages. Applicants will not be required to redraft new notices regarding the PPHs.

In any event, community outreach efforts don't necessarily end with notice concerning the PPHs. Members of constituent groups represented by Greenlining can still be notified about the proposed merger and invited to express their views through post cards, letters, or e-mail messages to the Commission's Public Advisor even after the PPHs have concluded. Accordingly, continuing outreach efforts may provide other avenues through which to address Greenlining's concerns over the adequacy of outreach to its constituent groups. These groups can exercise more discretion over the content of messages to their constituents about the proposed merger and how the message is disseminated. To the extent that such groups have the resources and willingness, they are free to augment the outreach efforts of the Applicants.

Similarly, TURN complains that the current announcement is biased in that it refers people only to the companies' websites for more information. TURN proposes that current announcements be expanded to refer people to consumer advocates' web sites for more information. TURN, however, does not identify specific web site addresses of groups that specifically may have a presentation of information about the merger. To that extent, TURN's request is insufficiently defined to permit an order in this ruling for notifying the public of

such specific web sites. Nonetheless, any group that seeks to provide such information in its web site is encouraged to take action to do so and to publicize its web site.

Greenlining, in addition, seeks an order requiring Applicants to award “outreach grants” to community groups in each area of the state where PPHs are being held. This request is too vague and generalized to be granted through this ALJ ruling, particularly within the limited time before the PPHs are to be held. Greenlining provides no details as to what level of grant funding may be warranted, what criteria or process would be implemented to select the recipient organizations, how much each group would receive, and who would do the selection of groups to receive grants. Moreover, Greenlining does not provide information as to which particular organizations may have the willingness, infrastructure, and/or expertise to make use of such grant funds efficiently and effectively to implement outreach measures in the limited time available. Accordingly, Greenlining has not made a sufficient showing to provide a basis for granting its request to require Applicants to award “outreach grants.”

IT IS RULED that the Motion of Greenlining is hereby denied.

Dated June 2, 2005, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Denying the Greenlining Motion for Public Outreach Measures on all parties of record in this proceeding or their attorneys of record.

Dated June 2, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.